

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

(1) CYNTHIA LAKEY AND DOUGLAS) LAKEY, as Co-Special Administrators) for the Estate of Jared Lakey,)) Plaintiffs,)) v.) Case No. CIV-20-152-Raw)) (2) CITY OF WILSON, et al.)) Defendants.)

**DEFENDANT CHRIS BRYANT, IN HIS OFFICIAL CAPACITY'S,
MOTION TO FILE SUR-REPLY RELATED TO
PLAINTIFFS' MOTION TO COMPEL/SANCTIONS**

Comes now Sheriff Chris Bryant, in his official capacity, ("Defendant") and pursuant to Local Rule 7.1(e) hereby files this motion to file a sur-reply related to Plaintiffs' Reply Brief (Dkt. 303), concerning their Motion to Compel. The allegations raised are appropriate for a sur-reply on behalf of Sheriff Bryant. Defendant Sheriff's sur-reply will not exceed five pages.

In Plaintiffs' Reply Brief related to their Motion to Compel, Plaintiffs raised claims essentially accusing either counsel for Sheriff Bryant and/or the County's insurer, ACCO-SIG, of bad faith and ask this Court to allow Plaintiffs to breach any confidentiality or privilege between ACCO-SIG and its reinsurer. Plaintiffs newly cites an Order from the Western District of Oklahoma on disbursement of funds on a plaintiff's settlement in excess of what they believe exceeds ACCO-SIG's responsibility. That Order does not discuss the relationship between ACCO-SIG or any monetary contributions of one or both. In the Reply Brief, Plaintiffs now seek an Order compelling Defendant to produce any notice of claim to the reinsurer despite such information or communication being of no consequence to Plaintiffs. Plaintiffs appear to want to assert, without any evidence or basis other than Counsel's disdain for ACCO-SIG, that the

presence of the reinsurer would have altered any settlement negotiations in this case. Each of these arguments or requests are new in the Reply Brief but could have been raised in the Motion to Compel.

Further, in the Motion to Compel, Plaintiffs asked for one remedy – an order compelling the production of any reinsurance agreement, which was provided without any order compelling such production. In the Reply, Plaintiffs now seek a number of other sanctions including an order finding that ACCO-SIG must waive any privilege and provide all insurance files from ACCO-SIG in this case to Plaintiff and an order compelling Defendant to produce correspondence between ACCO-SIG and the reinsurer, despite the fact that the reinsurance policy does not add any monetary value to Plaintiff's claim, alter ACCO-SIG's responsibility for any judgment pursuant to the police, or increase any potential settlement monies over and above the amount of insurance policy issued to Carter County. Plaintiff also asserts that is unclear what the limits of coverage amounts but it can be shown that the reinsurance policy provided shows those amounts.

A sur-reply will address the allegations of bad faith raised by Plaintiffs, the relationship between ACCO-SIG and its reinsurer and its lack of any effect upon any type of settlement or payment of any judgment, and the multitude of new sanctions requested by Plaintiffs' counsel.

On October 5, 2022, Defendant's counsel corresponded with Plaintiffs' counsel regarding the request for a sur-reply and any objection. Plaintiffs' counsel did state that Plaintiffs object to the filing of any sur-reply.

In this case where Plaintiffs are seeking additional sanctions and request to breach privileged information, Defendant believes it is reasonable for the Court to allow him to submit a sur-reply to address the new issues reflected in the Reply Brief.

WHEREFORE, for premises considered, Defendant Chris Bryant, in his official capacity, respectfully requests this Court grant him leave to file a sur-reply brief (limited to five pages) in support of his opposition to Plaintiffs' Motion to Compel.

Respectfully submitted,

s/ Wellon B. Poe

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ATTORNEYS FOR DEFENDANT CHRIS BRYANT, in his official and individual capacity as Sheriff of Carter County

CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2022, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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I hereby certify that on October 6, 2022, I served the attached document by U.S. Priority Mail, postage prepaid, to the following who is not registered participant of the ECF System:

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Pro se Defendant

s/ Wellon B. Poe

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